

Remarks

The examiner rejected claims 1-3 and 6 under 35 U.S.C. 102(b) as being anticipated by a printout of a purported archive of a web page from www.vikingfreight.com having a "last modified" date of June 8, 1998 (the "Printout").

The applicant respectfully traverses the examiner's rejection of claims 1-3 and 6 and adds new claims 14-20.

The preamble of claim 1 limits the claimed invention to, among other things, a computer based system for reducing user errors in ordering freight services. By contrast, the alleged prior art Printout shows a quoting service that does not allow the user to order freight services. Claim 1 is limited to a system for reducing errors in ordering actual freight service. As acknowledged during the November 6, 2001, interview, the preamble to claim 1 constitutes a claim limitation. There can be no anticipation since the Printout fails to disclose at least one claim limitation.

The Printout discloses online rate requests for a shipping service, but this alone does not meet each and every claim limitation. Nothing in the Printout suggests or teaches using the information gathered to provide actual scheduling and ordering of freight services. In fact, the Printout clearly teaches away from such use, because the Printout does not show the collection of any of the necessary information for scheduling and ordering freight shipments (e.g., pickup location, delivery location, etc.).

Separately, the Printout lacks disclosure of the claim limitation: "programs or software for sequentially displaying a plurality of accessorial services and requiring the user to address each of said accessorial services offered and to accept or decline said accessorial services" (emphasis added). The examiner appears to believe that by

checking or not checking a box on the Printout, the user has accepted or declined respective accessorial services. On the contrary, the Printout does not disclose accepting or declining a service (which is what claim 1 requires). Instead, it at most discloses checking an accessorial for purposes of requesting a rate, which is different. This is a second difference from claim 1. (4)

Finally, the Printout is not "prior art." It appears to be a printout created at the Patent Office in the year 2003, not a document extant in 1998. The "last modified" date of "June 8, 1998" does not evidence public use or sale, nor does it evidence "prior publication" as interpreted under section 102 of the Patent Act, since a web page can be "modified" without otherwise falling under any recognized category of legal prior art. Even if this alone did not obviate the Printout's use in a rejection, the "June 8, 1998" date is inconsistent with the list of www.vikingfreight.com dates shown in the www.waybackmachine.com listing accompanying the Printout. For instance, there is a "January 31, 1998" link and a "June 11, 1998" link, but no "June 8, 1998" link. This inconsistency calls into question the reliability of any purported effective date. Applicant respectfully traverses use of the Printout in any rejection for (1) failure to qualify under any subsection of 35 U.S.C. § 102 and (2) if prior art, lack of adequate evidence supporting its effective date.

In light of the above, and the new claims entered, applicant respectfully requests withdrawal of the rejections and early allowance. The examiner is therefore respectfully requested to place the case in condition for allowance at his earliest convenience.

Respectfully submitted,



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Dated: January 2, 2004
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